

**MEMO ENDORSED**

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**VIA ECF**

The Honorable Valerie E. Caproni  
United States District Court  
Southern District of New York  
40 Foley Square, Room 240  
New York, NY 10007  
CaproniNYSDChambers@nysd.uscourts.gov

Re: *Xu v. Direxion Shares ETF Trust et al.*, Civil Action No. 1:22-cv-5090

Dear Judge Caproni,

We represent Defendants Direxion Shares ETF Trust, Rafferty Asset Management, LLC, Direxion Family of Investment Companies, Daniel O'Neill, Daniel J. Byrne, Gerald E. Shanley III, Jacob C. Gaffey, Patrick J. Rudnick, Angela Brickl, Todd Kellerman, Paul Brigandi, Tony Ng, Michael Rafferty, Kathleen Rafferty Hay, Direxion Advisors, LLC, and U.S. Bancorp Fund Services, LLC in the above-referenced action. We write on behalf of all parties pursuant to the Court's order setting a conference regarding Defendants' anticipated Motion to Strike. See ECF No. 129.

Yesterday, the Court scheduled an in-person conference for this Friday, March 17, 2023 at 2:30 p.m. As Defendants' counsel are unable to appear before the Court at that time, we met and conferred with Plaintiffs' counsel to identify times when counsel for all parties would be available to appear before the Court in-person.

Counsel for all parties are available during the afternoon on Tuesday, March 21 and Wednesday, March 22. We also are available at the Court's convenience to discuss additional dates and times.

We appreciate the Court's consideration of this request.

Respectfully submitted,

/s/ Amy D. Roy

Amy D. Roy

cc: All counsel (via ECF)

Application GRANTED. The conference scheduled for March 17, 2023, is hereby ADJOURNED to **Wednesday, March 22, 2023 at 1:30 p.m.** in Courtroom 443 of the Thurgood Marshall Courthouse, 40 Foley Square, New York, New York, 10007.

SO ORDERED.

Date: 3/15/2023

HON. VALERIE CAPRONI  
UNITED STATES DISTRICT JUDGE